

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2007-0077**

**APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN
FOR THE SAN FRANCISCO BAY BASIN (BASIN PLAN) TO ADOPT
SITE-SPECIFIC OBJECTIVES FOR CYANIDE FOR
SAN FRANCISCO BAY AND AN IMPLEMENTATION PLAN**

WHEREAS:

1. An updated Basin Plan was adopted by the San Francisco Bay Regional Water Quality Control Board (San Francisco Bay Water Board) on January 21, 2004, approved by the State Water Resources Control Board (State Water Board) on July 22, 2004, and approved by the Office of Administrative Law (OAL) on October 4, 2005.
2. On December 13, 2006, the San Francisco Bay Water Board adopted [Resolution R2-2006-0086](#) amending the Basin Plan to adopt site-specific water quality objectives (SSOs) for cyanide in the San Francisco Bay.
3. The proposed Basin Plan amendment (Attachment) consists of the following: (a) adoption of marine SSOs for cyanide in all segments of San Francisco Bay; (b) adoption of an implementation plan to achieve and maintain the SSOs, including requiring mandatory effluent limits under the "Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California" (SIP) for all municipal wastewater dischargers and select industrial dischargers and the selection of dilution credits for shallow water dischargers to be used to compute water quality-based effluent limits in permits; and (c) minor clarifications to Chapter 4 of the Basin Plan to make it clear that the implementation plan for the SSOs for copper and nickel for Lower South San Francisco Bay requires mandatory effluent limits.
4. The San Francisco Bay Water Board found that the analysis contained in the staff report, the California Environmental Quality Act (CEQA) checklist, notice of public hearing, and notice of filing prepared by San Francisco Bay staff complies with the requirements of the State Water Board's certified regulatory CEQA process, as set forth in the California Code of Regulations, Title 23, 3775 et seq.
5. The San Francisco Bay Water Board found that the proposed amendment is consistent with [State Water Board Resolution No. 68-16](#), in that the changes to water quality objectives (i) consider maximum benefit to the people of the state, (ii) will not unreasonably affect present and anticipated beneficial uses of waters, and (iii) will not result in water quality less than that prescribed in policies and the proposed amendment is consistent with the federal Antidegradation Policy (40 Code of Federal Regulations [CFR] part 131.12). In addition, the proposed SSOs were derived through U.S. Environmental Protection Agency (USEPA) methods based on scientific rationale and are protective of the most sensitive aquatic life beneficial uses in San Francisco Bay as required under CFR part 131.11.

6. The State Water Board finds that the Basin Plan amendment is in conformance with Water Code section 13240, which specifies that Regional Water Quality Control Boards may revise Basin Plans, section 13241, which authorizes Regional Water Quality Control Boards to establish water quality objectives, and section 13242, which requires a program of implementation of water quality objectives.
7. The SIP authorizes the San Francisco Bay Water Board to adopt SSOs in lieu of the National Toxics Rule (NTR) criteria whenever the San Francisco Bay Water Board determines, in the exercise of its professional judgment, that it is appropriate to do so. Under the SIP, SSOs are appropriate if (a) a priority pollutant criterion or objective is not achieved in the receiving water, or a National Pollutant Discharge Elimination System (NPDES) permit holder demonstrates that they do not, or may not in the future, meet an existing or potential effluent limitation based on the priority pollutant criterion or objective, and (b) there is a demonstration that the discharger cannot be assured of achieving the criterion or objective and/or effluent limitation through reasonable treatment, source control and pollution prevention measures.
8. The proposed Basin Plan amendment proposes SSOs in the San Francisco Bay of 2.9 micrograms per liter ($\mu\text{g/l}$) for a 4-day average (chronic condition) and 9.4 $\mu\text{g/l}$ for a 1-hour average for cyanide (acute condition). These SSOs are necessary and appropriate for this water body because: (a) despite the performance of reasonable treatment, source control, and pollution prevention measures, effluent limits based on the current NTR objectives are not being consistently met; and (b) they are based on a recalculation of data from the national dataset and data from species (four West Coast crab species) resident to San Francisco Bay, which is a USEPA-approved procedure for establishing SSOs.
9. The proposed SSOs are currently being met in San Francisco Bay. The SSOs are supported by an implementation plan, which requires effluent limits for wastewater and selected industrial dischargers under the SIP and contains strong pollution prevention and source control actions designed to prevent water quality degradation and ensure ongoing attainment of the SSOs. The implementation plan also includes a selection of dilution credits for shallow water dischargers, calculated in accordance with the SIP, to be used to calculate water-quality based effluent limits in permits. This regulatory action is necessary to establish dilution credits in a consistent manner for all shallow water dischargers.
10. The San Francisco Bay Water Board has considered the impacts of the proposed Basin Plan amendment on those affected, namely publicly owned treatment works (POTWs) and industrial dischargers, including economic impacts. The San Francisco Bay Water Board found that there are minimal economic impacts that would result from the proposed Basin Plan amendment.
11. The scientific basis for the regulatory elements of the proposed Basin Plan amendment was subjected to an independent, external peer review pursuant to the requirements of Health and Safety Code 57004.
12. A Basin Plan amendment does not become effective until approved by the State Water Board and the regulatory provisions approved by OAL. The SSOs must also be approved by USEPA.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the amendment to the Basin Plan as adopted under San Francisco Bay Water Board [Resolution R2-2006-0086](#).
2. Authorizes the Executive Director or designee to submit the amendment adopted under San Francisco Bay Water Board [Resolution R2-2006-0086](#) to OAL for approval of the regulatory provisions and to USEPA for approval of the Basin Plan amendment.

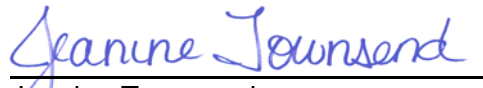
CERTIFICATION

The undersigned Acting Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on December 4, 2007.

AYE: Tam M. Doduc
Gary Wolff, P.E., Ph.D.
Arthur G. Baggett, Jr.
Charles R. Hoppin
Frances Spivy-Weber

NO: None

ABSTAIN: None



Jeanine Townsend
Acting Clerk to the Board